

sue therefor as the real party in interest in any district court of the United States in the district in which the defendant resides or has an agent, without respect to the amount in controversy, and if successful shall recover the cost of suit, including a reasonable attorney's fee. If the court determines that the action has been brought frivolously, for purposes of harassment, or in implementation of any scheme in restraint of trade, it may award punitive damages to the defendant.

(d) Award of costs to defendant

Any defendant against whom a civil action is brought under the provisions of sections 294 to 300 of this title shall be entitled to recover the cost of defending the suit, including a reasonable attorney's fee, in the event such action is terminated without a finding by the court that such defendant is or has been in violation of sections 294 to 300 of this title.

(e) Jurisdiction of civil actions

The district courts shall have exclusive original jurisdiction of any civil action arising under the provisions of sections 294 to 300 of this title.

(June 13, 1906, ch. 3289, § 5, 34 Stat. 262; Pub. L. 91-366, § 1(a), (b), July 31, 1970, 84 Stat. 690.)

AMENDMENTS

1970—Pub. L. 91-366 designated existing provisions as subsec. (a) and added subsecs. (b) to (e).

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-366 effective three months after July 31, 1970, see section 4 of Pub. L. 91-366, set out as a note under section 297 of this title.

SEPARABILITY

For separability provision of Pub. L. 91-366, see section 2 of Pub. L. 91-366, set out as a note under section 297 of this title.

CONSTRUCTION OF 1970 AMENDMENT

Amendment by Pub. L. 91-366 to be held to be in addition to and not in substitution for or limitation of the provisions of any other Act of the United States, see section 3 of Pub. L. 91-366, set out as a note under section 297 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 299, 300 of this title.

§ 299. Definitions

(a) The expression "article of merchandise" as used in sections 294 to 300 of this title shall signify any goods, wares, works of art, commodity, or other thing which may be lawfully kept or offered for sale.

(b) The term "person" means an individual, partnership, corporation, or any other form of business enterprise, capable of being in violation of sections 294 to 300 of this title.

(c) The term "jewelry trade association" means an organization, consisting primarily of persons actively engaged in the jewelry or a related business, the purposes and activities of which are primarily directed to the improvement of business conditions in the jewelry or related businesses.

(June 13, 1906, ch. 3289, § 6, 34 Stat. 262; Pub. L. 91-366, § 1(c), (d), July 31, 1970, 84 Stat. 690.)

AMENDMENTS

1970—Pub. L. 91-366 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1970 AMENDMENTS

Amendment by Pub. L. 91-366 effective three months after July 31, 1970, see section 4 of Pub. L. 91-366, set out as a note under section 297 of this title.

SEPARABILITY

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SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 298, 300 of this title.

§ 300. Application of State laws

All articles of merchandise to which sections 294 to 300 of this title apply which shall have been transported into any State, Territory, District, or possession of the United States, and shall remain therein for use, sale, or storage, shall, upon arrival in such State, Territory, District, or possession, be subject to the operation of all the laws of such State, Territory, District, or possession of the United States to the same extent and in the same manner as though such articles of merchandise had been produced in such State, Territory, District, or possession, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

(June 13, 1906, ch. 3289, § 7, 34 Stat. 262.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 298, 299 of this title.

CHAPTER 9—NATIONAL WEATHER SERVICE

Sec.	
311.	Omitted.
312.	Employees.
313.	Duties of Secretary of Commerce.
313a.	Establishment of meteorological observation stations in the Arctic region.
313b.	Institute for Aviation Weather Prediction.
314.	Omitted.
315.	Changes or assignment to duty.
316.	Omitted.
317.	Appropriations and estimates.
318.	Weather signals on mail cars.
319 to 321.	Omitted or Repealed.
322.	Odd jobs for part-time employees.
323, 324.	Repealed or Omitted.
325.	Authority for certain functions and activities.
326.	Maintenance of printing office in Washington, D.C.
327.	Employees for conduct of meteorological investigations in Arctic region; appointment and compensation; extra compensation to other Government employees for taking observations.
328.	Transfer from other Government Departments of surplus equipment and supplies for Arctic stations.
329.	Omitted.

§ 311. Omitted

CODIFICATION

Section, act Oct. 1, 1890, ch. 1266, §1, 26 Stat. 653, as amended, relating to the establishment of a Weather Bureau in the Department of Commerce, was omitted because the Weather Bureau was consolidated with the Coast and Geodetic Survey to form a new agency in the Department to be known as the Environmental Science Services Administration, and the office of Chief of the Weather Bureau was abolished, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note below. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Bureau and the Chief of the Bureau.

Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out as a note under section 1511 of this title, the Environmental Science Services Administration, including the offices of Administrator and Deputy Administrator, and established the National Oceanic and Atmospheric Administration within the Department of Commerce. By Department Organization Order 25-5A, republished 39 F.R. 27486, July 29, 1974, the Secretary of Commerce delegated to the National Oceanic and Atmospheric Administration a number of functions vested in him, including his functions under this chapter of the Code. By order of the Acting Associate Administrator, 35 F.R. 19249, Dec. 19, 1970, the following organizational names appearing in chapter IX of subtitle B of Title 15, Code of Federal Regulations, relating to the Administration, were changed: Environmental Science Services Administration to National Oceanic and Atmospheric Administration (ESSA to NOAA); Coast and Geodetic Survey to National Ocean Survey, and Weather Bureau to National Weather Service.

Prior to Oct. 1, 1890, the functions of the Weather Bureau were exercised by the Signal Corps of the Army. Act October 1, 1890, created the present Bureau in the Department of Agriculture. By Reorg. Plan No. IV of 1940, §8, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1236, the Bureau and its functions were transferred to the Department of Commerce, "Provided, That the Department of Agriculture may continue to make snow surveys and to conduct research concerning: (a) relationships between weather and crops, (b) long-range weather forecasting, and (c) relationships between weather and soil erosion."

WEATHER MODIFICATION PROGRAM

Act Aug. 13, 1953, ch. 426, 67 Stat. 559, as amended by act July 9, 1956, ch. 522, 70 Stat. 509, related to research and experimentation in the field of weather modification and created the Advisory Committee on Weather Control. Pub. L. 85-170, ch. II, §201, Aug. 28, 1957, 71 Stat. 427, provided in part that the Advisory Committee on Weather Control shall complete its report and terminate its activities by Dec. 31, 1957.

REORGANIZATION PLAN NO. 2 OF 1965

Eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, as amended Pub. L. 90-83, §10(c), Sept. 11, 1967, 81 Stat. 224

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 13, 1965, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see 5 U.S.C. 901 et seq.].

ENVIRONMENTAL SCIENCE SERVICES
ADMINISTRATION, DEPARTMENT OF COMMERCE

SECTION 1. TRANSFER OF FUNCTIONS

All functions vested by law in the Weather Bureau, the Chief of the Weather Bureau, the Coast and Geodetic Survey, the Director of the Coast and Geodetic Survey, and any officer, employee, or organizational entity of that Bureau or Survey, and not heretofore

transferred to the Secretary of Commerce, hereinafter referred to as the Secretary, are hereby transferred to the Secretary.

SEC. 2. ABOLITIONS

(a) The offices of Director of the Coast and Geodetic Survey, Deputy Director of the Coast and Geodetic Survey, and Chief of the Weather Bureau are hereby abolished. The Secretary shall make such provisions as he shall deem to be necessary respecting the winding up of any outstanding affairs of the officers whose offices are abolished by the provisions of this section.

(b) The abolitions effected by the provision of subsection (a) of this section shall exclude the abolition of rights to which the present incumbents of the abolished offices would be entitled under law upon the termination of their appointments.

SEC. 3. ENVIRONMENTAL SCIENCE SERVICES
ADMINISTRATION

(a) The Coast and Geodetic Survey and the Weather Bureau are hereby consolidated to form a new agency in the Department of Commerce which shall be known as the Environmental Science Services Administration, hereinafter referred to as the Administration.

(b) The Secretary shall from time to time establish such constituent organizational entities of the Administration, with such names, as he shall determine.

SEC. 4. OFFICERS OF THE ADMINISTRATION

(a) There shall be at the head of the Administration the Administrator of the Environmental Science Services Administration, hereinafter referred to as the Administrator. The Administrator shall be appointed by the President by and with the advice and consent of the Senate. He shall perform such functions as the Secretary may from time to time direct.

(b)(1) There shall be in the Administration a Deputy Administrator of the Environmental Science Services Administration, hereinafter referred to as the Deputy Administrator, who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Secretary may from time to time direct, and, unless he is compensated in pursuance of the provisions of paragraph (2), below, shall receive compensation in accordance with the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5].

(2) The office of Deputy Administrator may be filled at the discretion of the President by appointment (by and with the advice and consent of the Senate) from the active list of commissioned officers of the Administration in which case the appointment shall create a vacancy on the active list and while holding the office of Deputy Administrator the officer shall have rank, pay and allowances not exceeding those of a Vice Admiral.

(c) The Deputy Administrator or such other official of the Department of Commerce as the Secretary shall from time to time designate shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(d) At any one time, one principal constituent organizational entity of the Administration may, if the Secretary so elects, be headed by a commissioned officer of the Administration, who shall be designated by the Secretary. Such designation of an officer shall create a vacancy on the active list and while serving under this paragraph the officer shall have rank, pay and allowances not exceeding those of a Rear Admiral (upper half).

(e) Any commissioned officer of the Administration who has served as Deputy Administrator or has served in a rank above that of Captain as the head of a principal constituent organizational entity of the Administration, and is retired while so serving or is retired after the completion of such service while serving in a lower rank or grade, shall be retired with the rank, pay